

REMARKS

The application has been amended and is believed to be in condition for allowance.

A personal interview is requested prior to any further Official Action be issued in this case. It is requested that the undersigned attorney be contacted by telephone to arrange such an interview.

The claims have been amended. No new matter is entered by way of these amendments.

I. Claims 10 and 12-18 were rejected under section 112, 1st paragraph, stating that the last amendments to claim 10 and the new claim 15 contain subject matter not described in the specification, i.e., the displacement component.

Applicants strongly disagree.

As to claim 10, see Figure 5 illustrating an ancillary component (20) comprising a centro-medullary rod (22) and a rod base (21), the centro-medullary rod (22) extending from a first surface of the rod base (21), the rod base comprising a base mounting element (23, 25), the centro-medullary rod configured to be introduced into a femoral medullary canal.

Next see Figures 1-3 and 26-27 illustrating a displacement component (1) which comprises a displacement element and a mounting element.

The displacement component is shown attached to and extending above the tibial plate (2) in Figure 1 generally.

The displacement component is shown to include the displacement element, which in the embodiment of Figures 2-3 is illustrated as slide 5 and slide housing 3.

The displacement component mounting element engages with the base mounting element to mount the rod base to the displacement element with the rod base being approximately 90 degrees to the tibial plate. The displacement element is operable to displace the tibial plate and the rod base with respect to each other. (see Figures 26-27).

The issue in this rejection does not seem to be that the elements the displacement component or configuration of the displacement component with respect to the other recited elements are not supported/illustrated, but rather only the the term "displacement" is used instead of "tensioning".

Specification page 3 and original claim 1 disclose the recited displacement element: "- a slide which is capable of being displaced on a sliding means in a direction substantially perpendicular relative to the plate and which has means for being fixedly joined temporarily to an ancillary component which comprises a centro-medullary rod and a tibial plate and which is capable of receiving adjusting means of variable thicknesses, positioned beforehand at the end of the femur when the knee is in a state of flexion at approximately 90°,".

Original claim 1 and specification page 3 also disclose a motor means to displace the slide. Page 6 refers to a screw to displace the slide.

On specification page 8, in discussing a method embodiment, there is, in lines 16-24, use of the phrase "means for displacing" as well as "tensioning displacement".

From the above disclosure, it is clear that applicants had possession of the invention as recited. Withdrawal of the rejection is solicited.

II. Claims 1, 3, 4, 7, 10, and 12 were rejected under section 112, 2nd paragraph as indefinite. These claims have been amended to remedy the stated basis of rejection. As to claim 10, see line 6 recite base mounting element (23, 25) as illustrated in Figure 5. Withdrawal of the rejection is solicited.

III. Claims 1 and 3-8 were indicated to be directed to allowable subject matter. Allowance of these claims is solicited.

III. The Official Action rejected claims 10 and 12-18 under 35 USC 102(b) as being anticipated by WIXON 5,624,444.

The Official Action reads ancillary component onto WIXON Figure 2, rod 26 for the recited rod and sizing guide 21 as the rod base. Sizing guide 21 is not a rod base for rod 26

but rather indicates the position of the skids 23 (column 4, lines 29-44). The rod 26 extends through sizing guide 23 (Figure 2). Claim 10 has been amended to recite that a first distalmost end of the rod is attached to and extends from a surface of the rod base (see e.g., Figures 5-7). WIXON elements 21/26 do not satisfy this further recitation.

The Official Action offers WIXON anterior face 20 as the recited base mounting element. Anterior face 20 does not satisfy this recitation.

The Official Action offers WIXON nose 39 of cross bar 38 for the recited tibial plate (2) configured to be supported on a surface of a tibial cut extending completely across the tibia with a lowermost surface bearing against the tibial cut. Nose 39 is configured to contact the anterior cortex of the femur (column 6, lines 10-11) and is not configured to be supported on a surface of a tibial cut extending completely across the tibia with a lowermost surface of the displacement component bearing against the tibial cut.

Cross bar 38 has been offered for the recited displacement element of the displacement component. Although cross bar 38 extends from nose 39, the cross bar is not located completely above the tibia, when using the tibial plate as a horizontal reference. Part of cross bar 38 would extend below any element that could be considered a tibial plate.

Stylus 22 was offered as the recited displacement component. As least part of stylus 22 would not be above the tibial, using the tibial plate as a horizontal reference.

WIXON does not satisfy the displacement component mounting element engaging with the base mounting element to mount the rod base to the displacement element with the rod base being approximately 90 degrees to the tibial plate and the rod being generally parallel to the horizontal reference of the tibial plate.

Claims 10 and 12-18 have been replaced with new claims.

No new matter is entered by way of this amendment.

Reference is made to published application paragraphs [0036-37] and [0094] disclosing that in one method of implementation, a procedure of this type may comprise the following steps: after resection of the proximal articular end by means of a tibial cut in the region of the tibial plate, positioning an ancillary component, which comprises a centro-medullar rod and a tibial plate and which is capable of receiving a shim, in the femoral medullar canal after the knee has been placed in a state of flexion so that the plate of the ancillary component is pressed against the distal face of the femoral condyles, and (FIG. 24) positioning the ancillary component 20, the rod 22 being inserted into the medullar canal and the base being pressed by means of the upper face thereof against the

lower end of the femoral condyles; this operation is carried out with the knee in a bent state.

WIXON discloses a medullary rod 26 having a proximal end, the medullary rod configured to be introduced into a femoral medullary canal (See Figures 2-3).

WIXON does not disclose a rod base attached to the proximal end of the medullary rod, the rod base having i) a face configured to contact the femoral condyles when the medullary rod is disposed within the femoral medullary canal, and ii) a base mounting element. See again Figures 2-3. In WIXON the rod 26 extends through body portion 14, a face of body portion 14 contact the femur. WIXON does not disclose a rod base attached to the proximal end of the medullary rod, that rod base having either i) a face configured to contact the femoral condyles when the medullary rod is disposed within the femoral medullary canal, or ii) a base mounting element.

WIXON does not disclose a tibial plate having a lowermost surface configured to be supported on an upper surface of a tibial cut.

Nor does WIXON disclose a displacement element comprising a distal end extending from the tibial plate and being attachable to the base mounting element such that the medullary rod is approximately parallel to the upper surface of the tibial plate, wherein the displacement element is operable to displace

the tibial plate and the upper surface of the tibia with respect to the rod base.

The more specific features recited by dependent claims 20-23 are also not disclosed by WIXON.

Allowance of claim 19 and its dependent claims is solicited.

Claim 23 recites the invention being a device for displacing a tibia and a femur.

WIXON does not disclose an ancillary component comprising a medullary rod with an attachment part attached at a proximal end of the medullary rod, or a tensioning device comprising: i) a tibial plate configured to be supported on an uppermost surface of the cut tibia, ii) a first component that is attached at one end to the tibial plate, and iii) a second component that is attached to the attachment part of the ancillary component.

WIXON makes no disclosure of such a structure wherein, the first component and the second component are movable with respect to one another so as to displace the connecting element and the tibial plate with respect to each other between i) a first position wherein the medullary rod and tibial plate are separated by a first distance as measured along the tibial axis, and ii) a second position wherein the medullary rod and tibial plate are separated by a second distance as measured along the

tibial axis, the second distance being greater than the first distance.

Allowance of claim 23 is therefore also solicited.

Allowance of all the claims is therefore solicited.

From the foregoing, it will be apparent that applicants have fully responded to the Official Action and that the claims as presented are patentable. In view of this, applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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